



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|------------------------------|------------------|
| 10/007,178 | 12/04/2001 | Van I. Doesburg | 20150-0530 (45882-264681) | 5687 |
| 23370 | 7590 | 03/25/2003 | | |
| JOHN S. PRATT, ESQ KILPATRICK STOCKTON, LLP 1100 PEACHTREE STREET SUITE 2800 ATLANTA, GA 30309 | | | EXAMINER | |
| | | | SERGENT, RABON A | |
| | | ART UNIT | PAPER NUMBER | |
| | | 1711 | | |

DATE MAILED: 03/25/2003

3

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

| | |
|--------------------------------------|--|
| Application No. 10/007,178 | Applicant(s) Doesburg et al. |
| Examiner Rabon Sargent | Art Unit 1711 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.
- 4) Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-30 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2
- 4) Interview Summary (PTO-413) Paper No(s). _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

Art Unit: 1711

1. - Claims 23-25 and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The terminology, "of a type", renders the claims indefinite, because it cannot be determined what species or characteristics of the glass cullet fall within the metes and bounds of the claims.

2. Claims 23-25 and 29 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicants have failed to provide adequate guidance with respect to the species or characteristics that fall within the scope of the claim terminology, "of the type".

3. Claims 28 and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The significance of the term, "Side B", is unclear.

4. - Claims 1, 2, 5-13, 16-21, and 23-30 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for the use of glass cullet having a pH in deionized water of up to 8.4, does not reasonably provide enablement for the use of glass cullet having a pH in deionized water that exceeds 8.4. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention

Art Unit: 1711

commensurate in scope with these claims. Applicants have stated at page 11 that glass cullet that does not meet the aforementioned limitation is unsuitable for use within the invention, and the position is taken that the claims should be limited in accordance with the teachings of the specification.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-6, 11-17, and 22-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Ray et al. ('064) or Blount ('518).

Patentees disclose the incorporation of glass particles, having particle sizes which meet those of applicants, within reactants used to produce polyurethanes. See abstract; column 3; and examples within Ray et al. See abstract and column 2 within Blount. Given that glass particles of equivalent size are employed; the position is taken that applicants' claimed properties are inherent features of the compositions of the prior art. The glass cullet has not been distinguished from the disclosed glass particles.

Any inquiry concerning this communication should be directed to R. Sergent at telephone number (703) 308-2982.

R. Sergent
March 23, 2003

Rabon Sergent
RABON SERGENT
PRIMARY EXAMINER